STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXXXXXX

Petitioner

File No. 90067-001

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Midwest Security Insurance Company Respondent

Issued and entered this 24th day of July 2008 by Ken Ross Commissioner

ORDER

I PROCEDURAL BACKGROUND

On May 28, 2008, xxxxxx (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on June 11, 2008.

The Commissioner notified Midwest Security Life Insurance Company (Midwest Security) of the external review and requested the information used in making its adverse determination.

The case involves medical issues and the Commissioner therefore assigned it to an independent review organization (IRO) which provided its recommendation to the Commissioner on June 25, 2008.

II FACTUAL BACKGROUND

The Petitioner has health care coverage with Midwest Security under a group insurance

certificate (certificate) through her employment.

The Petitioner received chiropractic care with Dr. xxxxx from October 2007 through December 2007. Midwest security denied coverage for this care as not medically necessary.

The Petitioner appealed. Midwest Security reviewed the claims but did not change its decision and issued a final adverse determination dated March 24, 2008.

III ISSUE

Is Midwest Security correct in denying coverage for Petitioner's treatment?

IV ANALYSIS

Petitioner's Argument

The Petitioner says that she was treated by Dr. xxxxx on the dates in question for "neck/shoulder pain, lower back pain, headaches and sinus problems." She says she did not exceed the number of chiropractic visits provided in her policy.

Midwest Security Insurance Company's Argument

Midwest Security reviewed the Petitioner's medical records and determined that the medical records were incomplete, lacking subjective complaints and history, specific objective findings, specific plan of care with updates, and re-examinations showing improvement. Based on these records, Midwest Security determined that the chiropractic services rendered in 2007 did not meet minimum standards for medical necessity and therefore they were not a covered benefit.

"Medically Necessary" is defined in the "Definitions" section of the certificate as follows:

"Medically Necessary" shall mean medical treatment which is consistent with currently accepted medical practice. Confinement, operation, treatment or services are not considered Medically Necessary unless they are consistent with professionally recognized standards of care with respect to intensity, frequency and duration, and provided in the most economical and medically appropriate site for treatment, as determined by the Company. The treatment or care, including supplies and equipment, must be: consistent with the Covered Person's medical condition; known to be safe and effective by most Physicians who are licensed to treat the condition at the time the service is rendered; and not provided primarily for the

convenience of the Covered Person or Physician.

The "Limitations" section of the certificate excludes coverage for the following:

(2) Such charges which are Experimental, Investigational, Unproven or not Medically Necessary.

Midwest Security asserts that the Petitioner's chiropractic care is not medically necessary and its denial is, therefore, in accordance with the terms of the certificate.

Commissioner's Review

In reviewing adverse determinations that involve questions of medical necessity or clinical review criteria, the Commissioner obtains the analysis of an IRO. The IRO expert for this case is a licensed chiropractor in active practice who is a Diplomate of the National Board of Chiropractic Examiners. It is the IRO reviewer's opinion that medical necessity was not established for the Petitioner's chiropractic care between October 2007 and December 2007.

The IRO reviewer found only a limited history and initial physical examination, with no documentation of reexaminations. The reviewer stated,

the healthcare provider's poor system of documenting both patient treatment and progress does not allow us to believe that this enrollee has progressed at all. In fact, we don't even know the diagnostic approach which would indicate the reason for the treatment.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO reviewer's conclusion is afforded deference by the Commissioner because it is based on extensive expertise and professional judgment. The Commissioner can discern no reason why that judgment should be rejected in the present case.

The Commissioner accepts the conclusion of the IRO reviewer and finds the record does not establish the medical necessity for the Petitioner's chiropractic care.

V ORDER

The Commissioner upholds Midwest Security Insurance Company's adverse determination of March 24, 2008.

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This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.